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The transit problems of New York City

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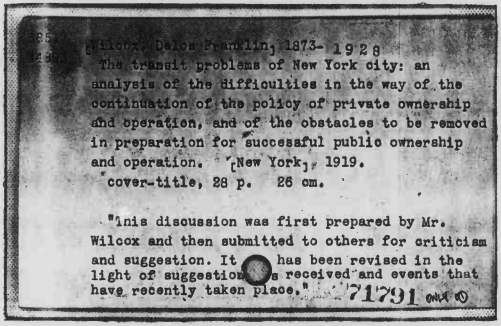

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The Transit Problems of NEW YORK CITY

An Analysis of the Difficulties in the Way of the Continuation of the Policy of Private Ownership and Operation, and of the Obstacles to be removed in Preparation for Successful Public Ownership and Operation

November, 1919

20 April 1920 Dow

TRANSIT PROBLEMS *of* NEW YORK CITY

An analysis of the difficulties in the way of the continuation of the policy of private ownership and operation, and of the obstacles to be removed in preparation for successful public ownership and operation.

IN 1916 the threatened strike on the steam railroads of the United States was looked upon as a prospective calamity comparable only to war itself. A strike was averted by the concessions to labor effected through the Adamson law. At the same time New York experienced the effect of strikes on the Interborough Rapid Transit Lines and on the surface lines of Manhattan and The Bronx. Following these transit disturbances, public attention was directed to the problem of devising some effective means for the prevention of strikes on local transportation lines. The Public Service Commission for the First District and the Merchants' Association of New York, each put forth a plan for legislation on this subject. But public discussion of these plans developed great differences of opinion, and when the United States entered the war, the matter was dropped for the time being so far as the state and local authorities were concerned. The avoidance of labor disturbances, even in local industries, suddenly became a national problem. The supreme peril of the war crisis called imperatively for efficient cooperation of all the industries essential to the war program and gave warning that street car strikes and the resulting paralysis of business could not be tolerated. The National War Labor Board was established and although its activity did not entirely prevent street railway strikes during the year when it was actively functioning it kept them in most cases from becoming serious. Public order and uninterrupted service were generally preserved. These results, however, were accomplished through the adoption of a liberal wage policy, by which the employes received, in some cases, even more than they asked. Labor was kept in the harness; but the employing companies were driven into bankruptcy, or brought to the very verge of it. Since the War Labor Board brought its active work to a close about July 1, 1919, the high cost of living has led to demands for still higher wages, and there has been an epidemic

of street railway strikes to enforce these demands. In many cases the men have won large additional increases in wages, and the financial condition of the companies has become more desperate than ever.

The National War Labor Board was without power to increase the companies' revenues by raising the fares, but it went as far as it could with moral suasion to induce the state and local authorities to grant rate increases without inquiring too closely into questions of past history and overcapitalization. But even where this advice was followed, the companies have secured insufficient relief, and their experience thus far raises a grave question as to whether, with the present high cost of labor and materials, the street railway business can be made both self-sustaining and publicly efficient at any rate of fare that may be charged. Certainly, this cannot be done without a radical scaling down of fixed charges where they are excessive and radical economies in operation where they can be effected without impairment of the service. The financial problems of the street railway business were sharply accentuated and brought to a grave crisis by the wage increases. Present financial conditions cannot continue indefinitely. With the war over, fare increases are likely to be increasingly unpopular as time goes on; and they will be ineffective largely in proportion to their unpopularity.

The pressure for a substantial reduction in wages as a means of reducing the cost of street railway service, and of enabling the companies to live, has not yet made itself widely felt, as the men are still demanding more, but when labor conditions change the pressure for a reduction of wages will be tremendous. This pressure will be strongly resisted. The situation is preparing for an industrial war in the street railway business unprecedented in extent. Almost always in the past a transit strike has been the signal for the release of elemental passions and the temporary subversion of public order, and the danger from street railway strikes during the period just before us is greater than it ever was before, unless the present wage rates are left unmolested. Financial bankruptcy and industrial chaos are the two horns of the street railway dilemma. The economic problem of street railway transportation presents a task of the first magnitude—urgent, insistent, threatening, dangerous to a degree.

Street railway service must be preserved. Street railway strikes must be prevented. But every man who thinks will recognize the fact that street railway companies cannot render service unless they are paid what it costs, and that street railway employes cannot be forbidden to strike unless their legitimate interests as employes are effectively taken under public protection, so that the strike will not be a necessity to them in their efforts to procure or retain just compensation and reasonable hours and conditions of employment. If the control of the rates of compensation to be paid to the employes is taken out of the hands of the

employing street railway companies in order to insure a fair deal to the employes, obviously a power is placed in the hands of some outside agency so to increase the costs of operation through increases in wages as to bankrupt the companies, unless the companies have some means of transferring to the fare-paying or the tax-paying public these additional burdens of cost if they become excessive. This is well illustrated by the results of the War Labor Board's policies.

Of course, in particular cases, profits under the old wage scales and with the old rates for service may have been sufficient so that the companies can pay the higher wages without requiring an increase of rates. But if, prior to the increase in wages, the rates charged have been regulated so as not to yield more than a fair return to a company, a large increase in the cost of labor, unless accompanied by corresponding savings elsewhere, will place upon the company a burden which it cannot properly be asked to bear, and which it may be unable to bear, even if asked. The full cost of public utility service must in the long run be borne by the public either through the rates, through special assessments or through subsidies from taxation. It is clear, therefore, that the problem of preventing strikes cannot properly be handled by itself, but must be handled, if at all, as a part of a general program covering the whole subject of street railway service and of the financial relations between the street railways on the one hand and the public which they serve on the other. It is inconceivable that arbitrary power should be given to an outside agency to put upon the operating companies unlimited increases in cost, unless the operating companies are permitted through some recognized procedure to seek and, if necessary, obtain, the additional revenues required by such increases in cost.

These considerations lead to an analysis of the entire public utility situation as it affects the problem of urban transit in New York.

Local transit service is a public necessity in great cities. Street railways were introduced into New York almost ninety years ago and their importance as a factor in the city's development and in its daily social and business life has been constantly increasing. To-day in this one city they represent a book cost of a billion dollars and during the course of a year they carry two billion passengers. The citizens of New York and the sojourners in their midst pay $110,000,000 annually in local carfares. These facts point to the overwhelming necessity for uninterrupted transit service in New York. In smaller cities the advent and enormous development of the automobile have to a certain extent taken the edge off the necessity for uninterrupted street railway service. In a city of a hundred thousand or even of several hundred thousand population, a complete street car tie-up for a temporary period is not quite so serious from the point of view of the public as it was fifteen or twenty years ago; for

the thousands of private automobiles are immediately impressed into service as free common carriers and the city gets along, in a lame sort of way, without any street cars running. Still, even in such cities, the temporary discontinuance of street railway service is a great inconvenience to the people and may be a public calamity. In New York, with its great distances and its enormous volume of traffic, the results of a complete suspension of street car and rapid transit service for a single working day would be disastrous.

Certain fundamental assumptions may be made and certain conclusions therefrom stated, which will be generally accepted without further argument. These assumptions are:

(a) That street railway transit service is a public necessity in the City of New York.

(b) That such transit service must be uninterrupted.

(c) That the necessity for uninterrupted service is so great as to cast upon the community as a whole the responsibility for seeing that it is provided.

If these assumptions are correct then these conclusions follow:

(d) That transit service in New York must not be permitted to break down, either through the deterioration of transit facilities, or through the lack of financial means to maintain and operate them so as to give adequate service.

(e) That strikes tending to an interruption of transit service must be prevented.

(f) That the municipality or some other public agency must be prepared to provide the required service through public ownership and operation if other means fail.

Thus far, transit service in New York has been secured mainly through private ownership and private operation. Still, the principle of public ownership has been accepted in the case of the bridges, the municipal ferries and the subways with their elevated extensions, and the principle of municipal operation was recognized for many years in connection with the shuttle service on the Brooklyn Bridge and has more recently been recognized in the case of the ferries to South Brooklyn and Staten Island. Under these conditions the first fundamental question to be answered is whether it is possible to secure adequate, uninterrupted transit service, such as the city requires, through a continuation and development of the present system of private ownership and operation. If our assumption as to the necessity of the service is correct, then in case the difficulties in the way of securing it through a continuation and development of private ownership and operation are found to be insuperable, it will be necessary to resort to public ownership and operation, no matter what difficulties have to be overcome in bringing it about.

DIFFICULTIES IN THE WAY OF SUCCESS WITH PRIVATE OWNERSHIP AND OPERATION

We may consider first, therefore, what are the essential obstacles to the successful development of private ownership and operation as a means for securing the necessary service in the future. We may enumerate the following:

(1) *The fixed 5-cent fare.* Under the constitution and present laws of New York as interpreted by the Court of Appeals in the Quinby (Rochester) case, the 5-cent fare stipulated in the franchise ordinances and contracts cannot be changed without the consent of the municipal authorities. Even the court's later decisions in the South Glens Falls case and the Buffalo case leave it uncertain whether the Public Service Commission can be given authority to increase street railway fares in New York City against the opposition of the Board of Estimate and Apportionment where the present rates are based upon local franchise contracts. This issue as to whether this power has already been conferred on the Public Service Commission has been definitely raised between that body and the City administration in the cases of the New York & North Shore Traction Company and the Manhattan & Queens Traction Corporation. The public authorities are also at odds over the transfer charges authorized by the commission at points not clearly covered by franchise contracts requiring free transfers. What might be called the purely political difficulties in the way of permitting an increase of fares on the surface street railway lines in New York are by no means slight, especially under private ownership. But if these difficulties be overcome, we should still be confronted with the fact that such an increase, to give effective relief to any particular street railway company, must apply to all competing surface and rapid transit lines. For example, to raise the fares on the surface lines of Manhattan without raising them on the subway and elevated lines would be obviously futile as a method of bringing financial relief to the surface lines. The City, after many years of public agitation and negotiation, has put or is pledged to put nearly $250,000,000 of public money into new rapid transit lines for the very purpose of securing the continuation of the 5-cent fare and a wide extension of the area to which it formerly applied. The existing transit lines of the city are owned by nearly sixty different companies, and are operated by about thirty-five, though most of the latter, until the recent partial disintegration of the Manhattan and Brooklyn surface car systems, were combined into the three big groups dominated by the interests that control the Interborough Rapid Transit

Company, the Brooklyn Rapid Transit Company and the Third Avenue Railway Company, respectively. Under these circumstances, with the financial condition of each separate company depending upon its own operating expenses, fixed charges and revenues from traffic, without respect to the operating expenses, fixed charges and revenues of the other companies, a uniform increase in fares would certainly give either too much relief to some of the companies or too little to others; while an increase that was not uniform would result in shifting the traffic between competing systems so as to destroy the financial benefits which the increase was designed to confer and at the same time create intolerable disturbances in service. It is clear, therefore, that if an attempt were made to apply the service-at-cost plan, which has been adopted in one form or another in Cleveland, Montreal, Boston and Cincinnati, the desired results could not now be secured because the street railway lines in New York are diversely owned and operated, whereas the service-at-cost plan, to be successful, must apply to a unified local system, thus avoiding the effects of competition combined with differential rates of fares. For the reasons given, the measure of relief that can be secured by the street railway companies of New York, no matter how bad their financial condition may become, by means of an increase in the rates of fare, is very uncertain.

(2) *Increased length of ride.* Another difficulty encountered by the local transit companies is the increasing length of haul which has resulted from the great expansion of the city and the lengthening and consolidation of street railway lines. It would require a very careful investigation to determine even approximately the average length of haul at the present time as compared with, say, the year 1900. It may be that the increase in short-haul traffic largely offsets the increase in long-haul traffic. If so, it is of the greatest importance from the financial point of view that the short-haul traffic should be preserved and developed. Any increase in uniform unit fares tends to drive away short-haul traffic and thus to increase the average length of ride and to defeat its purpose so far as financial relief of the operating companies is concerned. The adoption of a zoning system, if practicable under New York conditions, might preserve the short-haul traffic for the surface cars; but the doubling or trebling of fares for long-distance riders on the rapid transit lines would involve a radical reversal of the city's policy and would undoubtedly promote congestion of population and retard the development of the outlying areas which the dual subway system was designed primarily to serve.

(3) *Labor cost.* As a result of war conditions and the policy adopted by the National War Labor Board, street railway wages were radically increased throughout the country, and the position of the unions was strengthened so that it is problematical to what extent, if any,

the wages now being paid, especially to trainmen, will be reduced as normal conditions are restored in the future. There is a widespread belief that street railway employes were paid too little before the war and it is not at all likely that the public would approve a policy that would put them back in their pre-war status. Moreover, there seems to be no immediate likelihood of a reduction in the cost of living that would warrant a reduction in wages. If the figures given out on behalf of the Interborough Rapid Transit Company and the New York Railways Company can be accepted as accurate, the wage increases made effective between January 1, 1916, and, say, March 31, 1919, represented an increased cost of about 81/100 of a cent per revenue passenger on the subway and elevated lines and of about 1.15 cents per revenue passenger on the surface lines. The additional 25% increase in wages granted in August, 1919, must bring these figures up to about a cent and a half per revenue passenger on the I. R. T. lines.

It appears inevitable that for an indefinite period in the future the wages of labor used in street railway operation will be greatly in excess of what they were before the war. The aggregate cost of labor will remain high unless one-man cars are introduced to cut down the total number of men employed; but even if this economy can be effected in New York, it will apply only to the surface lines, leaving rapid transit costs untouched.

(4) *High cost of materials.* During the war period the prices of materials entering into the maintenance and operation of street railways, as well as the prices of construction materials, advanced enormously. Some of these prices have since receded somewhat, and they may recede still more after the final establishment of peace, but it seems quite unlikely that they will get back to the pre-war level for many years to come, if ever.

(5) *High cost of power.* The cost of power is one of the large items in operating expenses. It is dependent chiefly upon the price of coal and the cost of labor. Wages have reached a high level, and, as already pointed out, it is doubtful how far they will recede. The price of coal also has greatly increased and, while some reduction may be expected, it is not likely that the price will get back to the old levels. Freight rates are up, miners' wages are up and the supplies of coal are limited. It seems almost certain that the cost of power will continue higher than it was immediately before the war, unless radical changes are effected in its production and distribution. Possibly the plan for the establishment of super-power stations at the mines, which has received considerable attention from the British government as well as our own, as a means for the economical generation and use of power, may be developed in some practical way at some future time, but the close of the war and the withdrawal of the Federal government from its war

activities are likely to postpone this development to the somewhat distant future.

(6) *Competition of motor vehicles.* The immense increase in the number of automobiles and motor cycles in use in every urban community has unquestionably seriously affected the volume of street railway traffic. The special street railway investigating commission of the Massachusetts legislature, which reported a year ago, was of the opinion that private automobiles (not including jitneys) were taking traffic which otherwise would go to the street railways, amounting to about 12% of the total traffic now being handled by the street railways of that state. Applied to the entire country in proportion to the total urban population, this Massachusetts estimate would indicate that about $70,000,000 a year are taken away from the street cars by private automobiles. For New York alone the item would be ten or twelve millions of dollars every year on this basis. If to the competition of private automobiles is to be added the competition of jitneys and public auto-buses, the effect upon the financial condition of the street railways will be very serious indeed. In some communities, it has already become clear that the street railways and the jitneys cannot live together and pay their way.

(7) *Enormous expansion of investment in transit facilities.* While the completion of the new rapid transit lines will greatly increase the traveling conveniences of the public of New York and in many cases make it possible to travel for one fare where two or three fares were required before, yet the new investment of $400,000,000 does not supersede the old investment, but is added to it; therefore, to make the entire transit system of the city self-sustaining, with the dual system in full operation, it will be necessary for the street railway traffic to earn about $24,000,000 a year in additional fixed charges besides the increased cost of operating and maintaining the additional facilities. At pre-war prices the burden imposed by the dual system upon traffic would be very nearly $50,000,000 a year, or the equivalent of 1,000,000,000 5-cent fares. If the present high operating costs continue this burden will be still greater. In New York gross transit revenues are only about eleven per cent per annum on the book investment, whereas in Cleveland, Ohio, where the investment is relatively much smaller, they were as high as thirty per cent under a three-cent fare, and in August, 1919, with a five-cent cash fare, eleven tickets for 50 cents and a transfer charge of one cent, the earnings were at the rate of 44 per cent of the capital per annum.

(8) *Taxes, paving requirements and other franchise obligations.* The policy of the City and the State, for twenty years or more, has been to levy as large an amount of taxes as possible upon the public service corporations having the use of the streets. It is true that this policy has not been consistently applied in every case, but nevertheless, except in the case of the City-owned subways and their equipment and the ferries, there has been no public recognition of the idea that property devoted to public service while held by a private company should be relieved in any respect from the full burden of taxation applicable to property used for private purposes. The tax burdens of the local transit lines of New York are now about $8,000,000 a year, and, with paving and other franchise obligations added, at least $10,000,000. Taxes and these other public obligations have on the whole been steadily increasing and it seems unlikely that entire exemption of these properties from taxation, or any substantial discrimination in their favor, would receive popular support; for past experience seems to indicate that so long as the private companies remain in the field they will remain there for the purpose of making profit, and exemption from taxation is not looked upon with favor in the case of profit-making private enterprises.

(9) *Standards of service required.* In New York, because of its great area and its immense traffic, high standards of service are becoming more imperative every year, and after having once adopted the policy of regulation through the Public Service Commission, neither the City nor the State can be expected voluntarily to permit a permanent reduction in the standards of service, but on the contrary, there is reason to believe that the service requirements will become more stringent and imperative as time goes on and as public necessity increases.

(10) *Competition among transit lines.* The fact that elevated lines and subways have been and are being constructed in the same streets with, or closely paralleling, existing surface lines creates a multiplicity of facilities which, unless these facilities are coordinated and operated as a unit, tends to weaken or destroy some of them. The present condition of the surface lines of Manhattan illustrates this point.

(11) *Diversity of ownership and operation.* We have already pointed out that there are about 35 operating street railway companies and nearly 60 owning street railway companies in New York. Even where these companies have been brought together into large groups under unified control, it has not been possible to inaugurate all of the economies of unified operation and the adjustment of existing facilities so as to get the maximum use out of the investment; and so long as there is diversity of ownership these conditions will prevail. Free development is prevented by the strangle-hold of underlying leases and mortgages which prevent the readjustment and proper unification of facilities.

(12) *Danger of strikes and interrupted service.* So long as the transit facilities of the city are privately operated, the danger of labor disputes, strikes and the resulting interruptions of service will be imminent, particularly during the present difficult period of readjustment following the war. Under private operation whole-hearted public support is seldom given to drastic interference on the part of the established governmental agencies to keep the cars running in case of a strike. The danger of

industrial disorders and of the paralysis of transportation service in the period directly ahead of us imposes too heavy a responsibility to be safely borne by semi-private agencies.

(13) *Increasing traffic congestion.* As the density of street traffic increases in a great city, the cost of maintaining and renewing street railway tracks also increases. It also becomes more difficult for street cars to maintain their schedules and to operate at an economical speed. The result is increased expense for power and increased expense for trainmen's wages. This particular tendency appears to be inherent in the development of great cities, and if checked temporarily by better traffic regulation or by the construction of subways and overhead lines, it will nevertheless persist and make itself felt again in the long run.

(14) *Limited increase in revenues from increase in rates.* Urban transit is unquestionably a public necessity in any great city; yet experience shows that only a portion of the traffic ordinarily accommodated by the street railways is governed by necessity. Street railways have been built up on the theory of catering to the convenience traffic, and experience with increased rates during recent times in different parts of the country has shown that where rates are increased traffic is diminished, and particularly that the short-haul traffic, which is generally the most profitable for the companies, is driven away. The result is that increases in the rates of fare which theoretically should give 20, 40, 60 or 100 per cent increases in gross revenues, actually give far less than these percentages. There seems to be a limit to the price that can be charged for street railway service, if the street railways are to retain their position as a public utility designed to give general service. There is a psychological element which enters in to upset financial calculations where increased fares are involved. Accordingly, the street railways are faced, not merely with the difficulty of getting permission to charge increased rates in order to secure increased revenues, but also with the difficulty of inducing the people to ride in sufficient numbers after the rates have been raised. In other words, the companies have no assurance that any given increase in fares will bring them through whole. At best, they cannot depend upon such an increase in fares to do them anywhere near as much good as the percentage increase in rates would indicate. The experience of Boston with increasing fares is significant. On July 1st the Board of Public Trustees for the Boston Elevated Railway Co., operating the subways, the elevated lines and the surface cars, announced that it would be necessary to instal the 10-cent fare, but when the June figures became available it was found that the cost of service had already gone above 10 cents, and with the public boycott and the strike that followed the introduction of the 10-cent fare, and with a further increase in wages, the cost of service for the three months period, July to September, went up to 11.3 cents per revenue passenger. In October it went down to 9.5 cents.

(15) *Practical difficulties in the way of subsidizing private companies.* There is a provision in the state constitution prohibiting a municipality from giving money or property or lending its credit to a private corporation. The dual subway contracts were upheld in a pinch on the theory that the City was the owner of the lines and that it gave the companies no absolute guaranty as to their profits. A direct subsidy from taxation to make good any deficits which might accrue in the operation of transit lines would almost certainly violate the constitution as it stands to-day. Aside from the difficulty and delay incident to securing the amendment of the constitution, it is unquestionable that a very strong popular opposition would be encountered if an effort were made to remove the constitutional inhibition referred to. The idea that the government ought not to levy taxes to guarantee the profits of a privately-owned or privately-managed enterprise is widespread and deep-seated. It can hardly be called a prejudice, as it has its foundations in the principles of political philosophy to which the founders of American institutions probably gave more thought than is given to them at the present day in this country. Probably most thoughtful men will agree that the dual subway contracts went as far in the direction of loaning public credit to private enterprise as it would be safe to go. Indeed, many believe that the City overstepped the bounds set by good public policy and that the dual subway contracts would never have been approved if it had not been for the enormous interests involved.

(16) *Popular prejudice against concessions to public service corporations.* Aside from the specific question involved in the granting of public subsidies, the public service corporations of New York have long been objects of popular distrust. This is certainly true of the transit companies. Public hostility is of long standing and has become very deep-seated. Corruption in the relations between the transit companies and the public authorities in the old times, overcapitalization, the juggling of transit securities, and overcrowding on the cars and other features of inadequate service are all responsible, though in different measure, for this feeling of hostility. If the feeling were local to New York it might be within the realm of hope to overcome it, but observation and experience show that the feeling against street railway companies is almost universal in the cities of the United States. It would be extremely difficult, therefore, to secure popular approval of any modification of the transit companies' contracts or any new agreements with them which were based upon the theory of mutual interest and the honor that should characterize a partnership in the performance of a public function.

If it be assumed that the continuation and further development of transit service in New York is essential to the public welfare, and if the difficulties in the way of future success of private ownership and operation, as above outlined, are seen to be insuperable, then we are driven to

the conclusion that public ownership and operation furnish the only solution of the problem. Many are of the opinion that inasmuch as transit is now recognized to be a public function, vital in the highest degree to the welfare of the community, we ought not to look upon public ownership and operation as a policy to be adopted only as a last resort. They are of the opinion that the normal way of performing public functions is through public agencies and that whatever may be the extent of the City's present disabilities with respect to public ownership and operation, it is essential to the development of efficient democracy that the City should prepare itself as quickly and as fully as possible to undertake the performance of this function, rather than continue indefinitely to lean upon the broken reed of private operation with such public control as can be secured. But whatever our philosophy may be with respect to the City's attitude toward the ownership and operation of the transit lines so long as a choice between private and public operation remains open, we reach common ground when the difficulties in the way of private ownership and operation develop to a point where they are seen by all parties to be insuperable. We believe that this condition has "come to pass" in New York, and that now it behooves all men who are interested in the welfare of their city to unite in an effort to analyze, understand and overcome the difficulties in the way of successful public ownership and operation. No honest and thoughtful advocate of this policy is inclined to minimize those difficulties. Our first job is to understand them. It will be found that many of the difficulties already enumerated as standing in the way of successful private ownership and operation will also militate against the success of public ownership and operation, but where a hard job must be done, it seems reasonable that the party—in this case the city—ultimately responsible for getting it done, will have a better chance of success if it is free to tackle the job directly instead of trying to do it through other agencies whose interests are divergent from, and in some respects irreconcilable with, the public interests.

DIFFICULTIES TO BE OVERCOME IN PREPARATION FOR MUNICIPAL OWNERSHIP AND OPERATION

These difficulties or obstacles are legal, contractual, financial and administrative. The following are some of the most important of them:

(1) *Inadequate power on the part of the city to acquire or construct transit lines.* At the present time the City, under Section 30 of the Rapid Transit Act, has the power, through the Public Service Commission, acting with the cooperation of the Board of Estimate and Apportionment, to construct and operate rapid transit lines or to construct them and lease them to private parties for operation. The City also has the right, under the franchise-granting power, as defined in Section 73 of the Greater New York Charter, to grant franchises for street railways with the

stipulation that at the expiration of the term of the grant the plant and its appurtenances shall belong to the City, either without money payment or upon payment of its fair value, as the franchise may prescribe. Under this section of the charter, the City has the unquestionable right to own and operate any street railway lines which may come into its possession upon the expiration of a franchise containing one or the other of the provisions just mentioned, but this charter was not written until long after most of the surface and elevated street railway franchises had been granted in perpetuity. Moreover, most of the surface line franchises granted since this charter went into effect have been for a period of 25 years with the right on the part of the grantee to a renewal for a further period of 25 years upon a fair revaluation of the original grant. Under the Rapid Transit Act the subways have been or are being constructed and have been leased for private operation for a period extending to 1968 or later. Practically all the surface lines are held under perpetual franchises, or under franchises that do not expire until 1960 or later. Portions of the rapid transit lines constructed under the dual contracts may be recaptured by the City for public operation at any time after the expiration of 10 years from the commencement of operation by the companies. But the City has no specific authority at the present time to enter upon a comprehensive program looking to the acquisition, construction and public operation of a complete transit system. To enable the City to proceed to public ownership and operation in an orderly and effective manner, comprehensive enabling legislation is needed.

(2) *Impracticability of the construction of independent transit lines.* Where a City is in a position to choose between the construction of a new system of transit lines and the acquisition of an existing system, its position gives it great bargaining power. Theoretically, the street railway franchises of New York are not exclusive, but the physical limitations of the streets are such that the City would nevertheless be debarred from laying out and constructing an independent system of transit lines that would be in the slightest degree adequate for the public needs, even if no consideration were given to the question of injustice to the existing companies. It may be that under present conditions the franchises of the transit companies of New York, if taken as a whole, would represent a liability rather than an asset, but undoubtedly many of the underlying franchises are still believed by their owners to be of great value, and so long as these franchises, for all practical purposes, are exclusive, it is not to be expected that their owners will voluntarily surrender them for less than they think they are worth.

(3) *Impracticability of voluntary agreement with the companies upon a purchase price that would not be disadvantageous to the city.* There is a great deal of confusion in the public mind with respect to the extent

and character of the concessions that may be secured from street railway companies through negotiation. Almost invariably public utility properties and rights have been subjected to a variety of liens which put the operating companies themselves in a position where they are not free to bargain with a city. When bonds have been issued or leasehold guaranties executed which establish a liability greater than the conservative physical value of the property, it is perfectly futile for the public authorities to enter into negotiation with the nominal owners of the property, as the latter obviously cannot agree upon a value which the City could afford to accept. By doing so, they would automatically give up their own financial interest in the property and remove themselves from its control. Of course, not all companies are in exactly the same position in this matter, and before determining whether or not to enter upon negotiations with the nominal owners of a particular property, the City should look into the obligations existing against the property and determine whether or not it would be possible for the owners to enter into a fair agreement with respect to the value of the property. If the nominal owners are not in a position to do this, obviously any negotiations with them point either in the direction of delay and futility or in the direction of the City's making an improvident agreement, knowing it to be such. These considerations probably make it impracticable for the City of New York to acquire all the existing transit lines through voluntary negotiation and agreement, at least until more of the present nominal owners are ejected from control through receivership proceedings. It may be that even then no voluntary agreement with the complex and conflicting private interests could be secured by the city that would be advantageous to it.

(4) *Inadequacy of present condemnation law and procedure.* The condemnation law under which the City of New York acquires real estate for water purposes is contained in a number of special sections of the Greater New York Charter. It is hopelessly inadequate for the condemnation of the useful property of the private water companies, and is not applicable at all to the property of other utilities. The general condemnation law for New York is contained in another part of the charter and was designed primarily for use in the acquisition of real estate in connection with street openings, parks, etc. It does not apply to public utilities now, and even if the City were given authority to acquire transit lines under this law, the procedure would probably be quite inadequate and unsatisfactory. Under the theory of condemnation of private property, the owner is compensated for the full market value of the property taken, and for severance damages where only a part of his property is acquired. The tendency of the courts and of condemnation commissioners in all questions relating to value, is to give the property owner the benefit of any doubt that may exist. The result is that land acquired by condemnation proceedings is often very expensive, even where the proceedings are properly conducted. Sometimes the price paid is enough to create a public scandal. Street railway franchises are regarded as property in this state, and it might cost the City a pretty penny to reacquire them through ordinary condemnation proceedings, even though, if their terms and conditions were properly enforced, they might be a liability rather than asset for their private owners. Moreover, under the general condemnation law, no provision is possible for the appointment of commissioners or arbitrators who are really competent to pass upon the intricate questions of value involved in the acquisition of a public utility. Without legislation properly circumscribing the procedure, all doubts as to true value would probably be resolved in favor of the street railway companies, the same as if the property taken were strictly private property devoted to private purposes and free to be disposed of for its highest economic use. Thus, the City would not benefit from the fact that the property is already devoted to the public service and is subject to the burdens and obligations inherent in its use for transit purposes. Again, if the rates in force under franchise contracts were for the moment more than sufficient to yield a fair return upon the investment, they would nevertheless be assumed to be reasonable for the purposes of the condemnation proceeding and the extra earning power actually enjoyed by the company would go to swell the value of the property. On the other hand, if the company were bound under its franchise to render service at a rate that was insufficient to yield a fair return upon the investment, it is quite certain that this liability would not be deducted, in ordinary condemnation procedure, from the value, so-called, of the physical property.

Under present laws, even if they were made applicable to the acquisition of transit properties, the City would face the probable necessity of paying for these properties a price so extravagant as to start municipal ownership off with a heavy handicap of fixed charges, which might in some cases even approximate the burdens of overcapitalization under which the private companies groan and go bankrupt. Any legislation designed to establish rules of valuation in condemnation proceedings would require extremely careful preparation, both because of the intricacy of the problem itself and also because of the jealousy of the courts as the acknowledged guardians of property rights.

(5) *Constitutional limitation upon the city's debt-incurring power.* Under the present constitution of the State of New York the debt-incurring power of cities is limited to 10 per cent. of the assessed valuation of real estate for taxing purposes, with the exception that bonds issued for the acquisition or construction of waterworks are exempt from the debt limit, and with the further exception that in New York City bonds issued for a public improvement yielding a net revenue in excess of the interest

and amortization charges upon such bonds may be subsequently excluded from the debt limit. It should be observed that bonds issued for transit purposes might be brought under the New York City exception, if the transit lines were self-sustaining. In the first instance, however, these bonds could be issued only within the debt limit, even though later on they might be excluded, thus releasing additional credit for use in the acquisition of other public utilities.

For many years the City has been hugging its debt limit so close that there has been a doubt at any given time as to whether or not it had assumed obligations in violation of the constitution. For the purpose of increasing the City's debt-incurring power the assessments of real estate a few years ago were jacked up several hundred million dollars, but no one contends that it would be practicable to repeat this process on a large scale for the purpose of purchasing the transit lines. Several months ago the comptroller stated that the City did not have a sufficient margin of credit within the debt limit to provide the funds requisite for the completion of the rapid transit lines to which the City is bound by the terms of the dual subway contracts. If the City's financial condition has since improved, the credit margin now available is certainly a mere bagatelle compared with what would be needed for the purchase of the transit properties. The acquisition of all the transit lines in New York would probably involve the payment of at least six or eight hundred million dollars as the price of the portion of the property owned by private companies. It is perfectly clear that the City cannot make any satisfactory headway, either now or at any time in the near future, in the acquisition of the transit lines through the use of municipal credit under the debt limit as it stands to-day. If every other municipal need could be subordinated to the acquisition of the street railways, and if a period of continued prosperity should warrant a radical increase in the assessments, it might be possible to acquire the transit systems piece-meal, and, after each new acquisition had proved to be self-sustaining, to secure the removal from the debt limit of the bonds issued for its purchase; but on account of the recent immense increase in the cost of operating transit lines, it is unlikely that systems acquired piece-meal would prove self-sustaining at a 5-cent fare. For reasons already stated, an increase in fare would almost certainly not be attended by a corresponding increase in revenues and it is within the realm of possibility that some portions of the transit system, if operated independently, could not be made self-sustaining at the present time, no matter what fare was charged. Also, the City could not increase the fares upon its own fragmentary lines without financial disaster, unless at the same time it permitted or required the companies to increase the fares to the same extent on lines temporarily remaining in their hands and being operated in competition with the City lines. For the purchase of a public utility, it might be possible, without

violating the debt limitations imposed by the constitution, to issue bonds that are not secured upon the general credit of the City, but solely upon the property of the utility purchased, with the right to foreclosure and to a return to private ownership and operation in case of default by the city in the payment of interest or principal, but such a procedure would forfeit to the city one of the principal advantages of public ownership, namely, the low interest rate on capital secured on the basis of municipal credit. Also, it might be possible to issue outside of the debt limit, bonds secured by a first lien upon the gross or net earnings of the utility. Still no legislation providing for the adoption of either of these financial expedients has as yet been placed on the statute books of this state, and its constitutionality will not be fully established until it has been enacted and has stood the test of litigation.

(6) *Practical financial difficulty involved in paying for existing transit lines.* Aside from any legal limitations upon the City's debt incurring power, the transformation of three-quarters of a billion dollars of private securities into public securities might be attended with grave difficulties, especially during the period immediately following the close of the most destructive war that the world has ever witnessed. Unless the great financial houses, which during the past have had a controlling interest in the flotation of city bonds, were in sympathy with the City's municipal ownership policy, great difficulties might be encountered in selling six or eight hundred million dollars of city securities at a satisfactory price. At the present time there is no provision of law under which the City could acquire the transit lines either by purchase or by condemnation, taking them subject to the bonds already outstanding against them. Indeed, in some cases, it may be that the amount of the bonds now outstanding is greater than the true value of the property. At any rate, a plan that would involve the sale of new securities to enable the City to pay the full purchase price of the transit properties in cash, which would be used in satisfying obligations now outstanding against the companies, might threaten to create so profound a disturbance in the investment world as to be considered impracticable at a period when financial stability is regarded as especially important.

(7) *Inadequate power on the part of the city to undertake the operation of transit lines.* Formerly, many advocates of municipal ownership were opposed to municipal operation. Their plan was to have the capital required for the construction and equipment of transit lines furnished by the City, but to have the actual operation of the lines carried on by a private company under lease. The exigencies of the war have brought about certain experiments with a policy nearly the reverse of this. The United States Government at the present time is operating the railroads under a plan which provides for the payment

of a rental to the companies owning these properties and does not make any provision for the ultimate acquisition of title to the properties or for the retirement of the private investments in them. The state of Massachusetts only last year adapted this plan to the cases of the Boston Elevated Railway Company and the Bay State Street Railway Company (since reorganized as the Eastern Massachusetts Street Railway Company), which are now being operated by boards of public trustees, although private ownership is continued. By these experiments this plan has at least been raised to the dignity of a debatable policy. Indeed, it is conceivable that if the disadvantages of private ownership and operation attach primarily to the operation end, the major benefits of public ownership and operation might be secured through the adoption of this plan of public operation with private ownership. The Boston experiment has thus far proven very unpopular, but so far as can be learned its unpopularity has little or nothing to do with the merits of public operation, with or without public ownership, as compared with the merits of private ownership and operation. If some adaptation of the Boston plan were feasible in New York, this would undoubtedly provide the quickest means for the elimination of the evils of private operation and would not involve any disturbance in the investment world. Indeed, one of the primary reasons for the adoption of the plan in Boston was the desire to stabilize and guarantee a fair return upon the investments which, under private ownership and operation, had for some time been seriously endangered. However advantageous the plan might be for New York, the City could not adopt it without additional legislative and constitutional authority.

(8) *Dangers of political interference.* One of the strongest objections to municipal ownership in the minds of many has been the fear that it would be impossible to keep the administration of municipally-owned utilities "out of politics," with the result that extravagance and inefficiency would ensue. In New York, where administrative demoralization in the operation of the rapid transit lines might result in public disaster, there is a tendency especially to emphasize this danger. The argument against municipal operation is greatly strengthened where public officials elected on a municipal ownership platform take the position that experts are not needed in city government, but that any average citizen with a normal endowment of common sense is entirely competent, regardless of his experience or his lack of it, to administer public affairs. Obviously, great public utilities such as the transit lines of New York cannot be successfully operated by novices, or by persons whose only qualification for the job is their experience as precinct captains or district leaders. The fact is that most American cities in their general administration have suffered grievously by the intrusion of state and national politics. The movement for non-partisan city government, or at least for the

exclusion of partisanship from certain vital branches of the city government, has made great headway in the United States during the last two or three decades; and when we consider the importance of certain functions which the cities, for better or for worse, have undertaken to perform, we see not so much the difficulty of excluding partisan politics from the administration of these functions, but rather the absolute necessity of doing so, no matter what the difficulties are. Certainly, the appointment of political hangers-on to lucrative jobs in connection with the operation of a municipal utility is an evil to be feared and avoided. So also is rotation in management that is entirely dependent upon the success or defeat of particular parties or factions. But it is equally necessary to exclude these evil practices from the administration of the schools, the fire department, the police department and public charities, to name no others of the principal functions of municipal government. Moreover, any system of handling the public utilities that tends to introduce corruption or weakness in municipal government, on account of the special interests and claims of private corporations having franchises in the streets, has the double tendency, not only to demoralize the other functions of municipal administration but also to bring politics into the administration of the utilities themselves, even under private ownership. Political interference, and inefficiency as a result of it, have by no means been unknown in the history of the street railway business of New York. Nevertheless, this danger to municipal ownership and operation is a real one, and any plan for the launching of a municipal ownership program must include careful safeguards against it.

(9) *Civil service handicaps.* The merit system, which became mandatory in New York upon the adoption of the state constitution of 1894, was devised for a double purpose: first, to prevent appointments to and removals from subordinate positions in the municipal service being made for political or religious reasons; and, second, to make the public service honorable, efficient and democratic by opening to any citizen, regardless of his antecedents, an opportunity for a career in the civil service, dependent only upon his merit and fitness. Any plan is more likely to succeed in the hands of its friends than in the hands of its enemies. The merit system has been compelled to make its way in large measure as a restriction upon the discretion of those who are called upon to operate it. The success of the merit system, when administered by people who do not believe in it and who take every opportunity to disregard it or to thwart it, is about as great as the success that can be expected of municipal ownership and operation under public officials who consider that private ownership and operation is the only proper policy and that they and their colleagues in the public service are and always will be unable to do the job efficiently.

As a result, civil service laws and regulations have become very cumbersome and complicated and the public employes holding positions in the classified service have not as a rule developed the alertness and ambition that ought to characterize an official career. In many cases the effort to protect employes from removal for political reasons has resulted in giving them so much security of tenure that they have little or no motive to fear losing their jobs on account of laziness or inefficiency, while at the same time the rules adopted to prevent political favoritism in promotions are so inflexible as to deaden the hope of securing proper advancement for real merit. When high-grade men find themselves temporarily in charge of municipal departments, they are often handicapped in their efforts to bring about changes in the organization and personnel of their departments, without which they cannot administer them effectively. It may be that the civil service laws and regulations, built up by the reformers for the purpose of improving the personnel of the public departments, would prove to be a serious menace to the efficient operation of municipal utilities, unless modified so as to provide a more flexible method of promoting competent employes and discharging those that are incompetent. It is often said that people cannot be made moral by statute. It certainly is a discouraging job to try by statute to make public servants efficient when they desire to be the very opposite. The fact is that neither municipal operation nor any other public function will ever be carried on efficiently unless public opinion strongly favors efficiency and makes itself felt in the selection of the responsible public officials.

(10) *Danger of employes combining for political or personal ends.* The City of New York already has about 85,000 people on its regular payrolls. The transit lines of New York have approximately 40,000 regular employes. If all these employes were taken over into the public service they would constitute a more or less compact block, with considerable political possibilities. It is conceivable that in a close election, where issues in which the municipal traction employes had a special interest were involved, even in a minor way, this block of votes might hold the balance of power, and be cast in such a way as to determine the policies of the city not merely with respect to street railway matters, but with respect to other matters of grave importance. This danger, if it be a danger, exists today; it would only be increased by the addition of another large block of employes to the public payrolls. It is well known that certain groups of public employes are now banded together for the purpose of influencing elections and legislation for the advancement of their particular interests. Organizations of firemen, policemen and school teachers are well known in the legislative halls at the state capitol, and candidates for congress do not always

ignore the existence of the letter-carrier vote. It is likely that the recent doubling of the electorate in New York, through the extension of the suffrage to women, will tend to neutralize the power of any particular group of voters so that New York might be able in the future safely to absorb into the body of the electorate twice as many municipal employes as it has had to absorb in the past. Municipal employes are also citizens and it is not at all likely that their other political and civic interests would be completely subordinated to the demand for organized political action to preserve or better their city jobs. Still, the burden rests upon the proponents of municipal operation to include in their program all practicable measures to avoid the danger of the development of undue political power in the hands of organized bodies of public employes having for their chief interest the grinding of their own axes.

(11) *Danger that public operation of public utilities will become unduly burdensome upon the taxpayers.* Under public ownership and operation of transit lines the expenses of rendering the service and the interest and sinking fund charges on the bonds outstanding would have to be paid. The people who ride on the cars like low fares and good service, and these people undoubtedly constitute an overwhelming majority of the voting population. If the fear that municipal operation would be extravagant proved to be well founded, the necessary choice would be between higher rates and subsidies out of taxes. If, on the other hand, the patrons of the transit lines should insist upon lower fares, a double burden might thereby be thrown upon the direct taxpayers, namely, the burden of inefficiency and the burden of service at less than cost. Undoubtedly, if bonds are issued within the debt limit for the purchase of the transit lines, the taxpayers will have to be ultimately responsible for interest and amortization charges on the capital invested in the municipal utility plants. A public hardship might result from the expansion of the City's funded debt, if that necessitated an undue curtailment in the expenditures for other improvements vital to the welfare of the City. Also an undue increase in the tax rate might have the effect of compelling retrenchment in other branches of the City government, or in placing too heavy a burden upon the direct taxpayers. It would seem that under normal conditions in an ordinary city the municipal transit lines ought to be made self-sustaining. In New York, however, conditions are peculiar. The great area of the city and its immense population, with the long-continued congestion in the tenement districts of Manhattan and portions of The Bronx and lower Brooklyn, have induced the City to adopt the policy of giving support out of taxation for the maintenance and extension of a system of uniform low fares. While the possibility that municipal ownership

and operation might place too heavy a burden upon the taxpayers must be given consideration, yet it is clear that so far as New York is concerned the die is cast, and unless the City should reverse its policy and take what many would regard as a fatal step backward, it must be prepared to guarantee the cost of adequate transit service at low rates by special forms of taxation or by subsidies from the public treasury to whatever extent may prove to be necessary, whether under public or under private ownership.

(12) *Danger of over-extension of lines.* A great many street railways in different cities of the country have been over-built, either because men in control of the companies had private landed interests in outlying sections, or because other persons interested in the development of suburban real estate were able to bring sufficient pressure to secure the extension of car lines in advance of any legitimate public need. It is feared by some that with the power to order extensions vested in the Board of Estimate and Apportionment, the Board of Aldermen, or some other political body, the clamor for street railway extensions from different outlying sections would prove to be irresistible, and that as a result municipal ownership and operation would founder on the rock of premature extension and over-development. This would mean not only an unnecessary increase in the capital investment and the fixed charges resulting therefrom, but also in excessive operating costs on account of the necessity of maintaining and rendering service on non-paying lines. This involves a grave question of public policy, but the fact should not be overlooked that in Great Britain where most of the large cities have municipalized the tramways, this danger of overbuilding has not amounted to anything. In fact, if we were to heed the criticisms made by men interested in continued private control in this country, we should have to conclude that British municipalities have been over-conservative about extensions.

As already indicated, the conclusion that uninterrupted urban transit is a vital necessity and that under prevailing conditions it is impracticable to expect adequate success through a continuation of the policy of private ownership and operation, points directly to public ownership and operation as unavoidable. Under these conditions, the difficulties in the way of public ownership and operation are to be analyzed and stated, not for the purpose of discouraging or preventing the adoption of this policy, but rather as the first step in devising means to put it into effect. The definite formulation of the measures necessary to make public ownership and operation of transit lines in New York legally, financially and politically feasible is not an overnight job.

NECESSARY MEASURES PREPARATORY FOR MUNICIPAL OWNERSHIP AND OPERATION IN NEW YORK

Taking up in order the several obstacles in the way of successful public ownership and operation in New York, as outlined in the preceding division of this statement, we suggest the following means of overcoming them:

(1) *The absence of legal authority to acquire and own the transit lines can be cured by legislation.* At least three general municipal ownership bills were introduced in the legislature at the 1919 session. Of these the most important was the Fowler bill originally drafted by a committee of experts for the organization of mayors and other officials of the cities of New York State, and subsequently revised by a committee of the City Club. This bill would have conferred upon the city legal authority to undertake municipal ownership of any public utility for the operation of which a franchise is required, and to acquire the property of existing utilities by purchase or condemnation. If enacted, it would have marked a most important step in the history of legislation in New York, and would have definitely recognized municipal ownership and operation as a policy to which the state no longer had objections. This bill passed the Senate but was defeated in the Assembly. The enactment of permissive legislation granting to cities the bare legal authority to acquire and own public utilities is a relatively simple problem. The real difficulty comes in the drafting of legislation prescribing the methods of acquisition, the ways of paying for the property, and the manner of operating it.

(2) *The impracticability of building a complete independent competing municipal transit system, or of effectively threatening to do so, cannot, under the circumstances, be overcome.* It would be possible, however, for the City to acquire a fragment of the existing transit lines, as, for example, the Third Avenue Railway System, or, when the recapture clause of the subway contracts comes into effect, one of the rapid transit units therein described, and on the basis of this fragment enter into competition with the other lines, afterwards gradually extending the fragment as far as practicable, so as to make it a formidable competitor. This is the policy which has been adopted by the City of San Francisco. Moreover, the city might be able to strengthen its position through the development of municipal bus lines, commencing with the acquisition of the Fifth Avenue Coach system and extending the lines as far as practicable to get the cream of the traffic away from the privately owned street car lines. Such a plan would entail a considerable waste of capital, but not by any means so great a waste as would be involved in the duplication of the surface or rapid transit car lines.

(3) *The impracticability of reaching a voluntary agreement with the companies which would enable the City to purchase the transit lines at a reasonable price can be overcome, if at all, only by the threat of competition or by the refusal of the local and state authorities to grant any concessions to the companies unless they agree to a fair purchase price.* They are asking relief from the present burdens of taxation and franchise charges, and are seeking permission to increase their rates. They should not be given the relief requested or be permitted to continue to operate where their franchises have been forfeited or become forfeitable, except on condition that they surrender their existing rights and claims, so far as they are inconsistent with good public policy, and agree to a re-settlement of their relations with the City, based upon the right of the City to buy them out at a fair price fixed in the agreement or at a price to be fixed in a fair way as outlined in the agreement.

(4) *The inadequacy of the present condemnation law and procedure can probably be overcome by the formulation and adoption of legislation specially adapted to the condemnation of public utility properties.* While it is not clear how far the legislature could go in laying down the rules of valuation, a law could be so framed as to require consideration of certain fundamental facts in the valuation, in condemnation proceedings, of property already devoted to public service and subject to the burdens and disabilities under which public utility property is operated. This would at least cause the condemnation commissioners and the courts to pause before making exorbitant awards, such as have been more or less characteristic of condemnation proceedings in the past where strictly private property has been taken for public use, and would put the cities upon their guard by calling the attention of their legal representatives to lines of proof and argument which have heretofore been much neglected and which might be made very effective, even under existing condemnation rules. The right to acquire the transit lines by condemnation was one of the features of the Fowler municipal ownership bill.

(5) *The constitutional limitation upon the City's debt-incurring power can be removed by an amendment to the constitution, either raising the debt limit for all purposes, or raising it for the purpose of permitting the issuance of bonds for the acquisition or construction of municipal utilities, or entirely excluding utility bonds from the debt limit.* It is probably within the power of the legislature under the present constitution to make provision for the issuance of public utility bonds secured solely by a mortgage upon the utility property with the contingent right to operate it under a franchise in case of default. At any rate such legislation could be specifically authorized by a constitutional amendment. Provisions of this kind have been inserted in the constitutions

of Michigan and Ohio in recent years. Furthermore, the plan in use in the state of Washington by which public utility bonds not included within the debt limit of the cities may be issued upon the security of a special fund created from the gross earnings of a municipal utility, might be adopted in New York by legislative act. Under this plan the City of Seattle took over on March 31, 1919, the entire local street railway system of the Puget Sound Traction, Light and Power Company. The purchase price of $15,000,000 was paid in these utility bonds bearing interest at five per cent. The plan was sanctioned by the highest court of the State of Washington in a decision handed down March 5th, 1919. The Washington statute contemplates that rates shall be maintained at a point where the utility will be fully self-sustaining, but the Seattle ordinances upheld by the court give the street railway bonds a first lien upon gross earnings, leaving any deficits in operating expenses to be made good out of the city's general fund.

(6) *The practical financial difficulty involved in the city's paying for the existing transit lines in case of the opposition of the great financial houses could perhaps be overcome by legislation under which the city could take over the equities in the properties subject to the underlying bonds now outstanding.* Indeed, it is probable that as soon as the country has recovered a little from the extraordinary financial strain of the war, the city would be able to find a market for its securities, if legal difficulties were out of the way, by selling them over the counter. Certainly the transit companies are unpopular enough in New York, and the prospect of municipal ownership and operation, if a wise plan for its inauguration were adopted, would be attractive enough to the general public to make the failure of a popular loan for the acquisition of the transit lines most unlikely.

(7) *The inadequacy of the City's power to operate transit lines can readily be overcome by legislation.* The Fowler municipal ownership bill would have put municipally operated utilities under the control of the public service commissions with respect to accounting, reports, safety of operation and non-discrimination in rates. With respect to most other matters the jurisdiction of the commissions should be merely cooperative and advisory. Certainly, as applied to New York transit lines, the Public Service Commission could not properly be given authority to determine matters of municipal policy as between the car riders and the taxpayers. Where a municipality in operating a utility renders service outside of its corporate limits, the terms and conditions of such service may properly be controlled by a state commission, where not fixed by contracts between the municipalities concerned, with the commission's approval. But this problem, if it should arise at all in connection with

municipal transit operation by the City of New York, would be of minor importance, at least for a long time to come.

(8), (9) and (10) *The dangers of political interference, the handicaps of civil service regulation and the danger that municipal transit employes would do harm by combining for political or personal ends, can be overcome or minimized by wise legislation, and can be effectively overcome by public opinion and efficient administration.* The city should undertake the municipalization of the transit system in a broad constructive spirit, appealing to its citizens for cooperation in the furtherance of the public welfare, and in the development of a strong and efficient municipal democracy in accordance with the awakened spirit of liberty and responsibility incident to the part America has played in the World War. The fact should not be overlooked that the effects of efficiency or inefficiency in the operation of local transit lines is more obvious to every citizen than in the case of any other public function, and under municipal operation this would be a powerful deterrent to inefficiency. A plan should be worked out that would guarantee to the employes an effective participation in the adjustment of their grievances. The principles of organization, collective bargaining, impartial investigation of complaints and full publicity should be woven into the plan. The rights of the employes to just compensation and reasonable hours and conditions of work should be amply guaranteed, but the operation of the transit lines should be effectively freed from the menace of interruption through strikes.

(11) *The danger that municipal operation might become unduly burdensome to the taxpayers can be overcome by a proper organization of responsibility for operation and construction, and by the formulation and adoption of a comprehensive municipal program in which transit will play an important rôle, not as an end in itself, but as a means to the development of the city and the promotion of its welfare.* The transit system of a city should be treated as a whole and its extension and development should be dictated by considerations fundamental to the city plan. Local transit is now recognized as being one of the most powerful socializing agencies which the city has at its command. Any effective city planning in the true sense of that term is largely dependent upon it. If under municipal operation the transit service as a whole should fail to be self-sustaining at the rates of fare deemed to be most conducive to the general use of the service, it would be no injustice upon the business men and land owners who receive great benefits from street railway transportation, even where they seldom use it themselves, to have the necessary excess cost paid out of taxes.

(12) *The danger that under municipal ownership private and selfish*

interests might dictate the extension of street car lines to the detriment of the general public could be overcome by the inclusion of transit development as a vital part of a well coördinated comprehensive plan for the development of the city as a whole. An extension of street car lines, whether under public or private ownership, ought not to be determined exclusively upon the basis of the ability of each particular extension to earn its own living. Moreover, any tendency toward the over-extension of car lines would probably be corrected by the adoption of a plan requiring that the cost of all new lines petitioned for by the residents of the districts which they would serve should be paid by special assessments on the property benefited. The theory of assessments for benefits might even be carried to the point of requiring operating deficits on outlying lines, where the traffic is thin, to be made up by a special tax upon the real estate in the districts served.

During the past year municipal ownership as an unwelcome but necessary way out of the existing street railway tangle has found prominent advocates even in the ranks of the American Electric Railway Association. But street railway presidents, managers, attorneys and bankers rally to the side of private ownership and operation except in a few of the most desperate cases. No matter what the true interests of the investors may be, they have practically no voice except through the group of men whose power, prestige, salaries and opportunities for profit depend mainly upon the continuation of private management. We see the same thing on a smaller scale in public life whenever an attempt is made to abolish an office or a commission that has outlived its usefulness. The judgment of the incumbent as to the need for the continuation of the office has to be heavily discounted. In like manner, very little weight can be given to the opinions on municipal ownership of lawyers, bankers and executives whose prosperity is fed upon private control. The salaries of street railway presidents are seldom cut because of the financial distress of the companies, and as for the lawyers' fees and the bankers' commissions, they swell in inverse proportion to the security and prosperity of the investors.

The legal and financial obstacles that have been placed in the way of the adoption of municipal ownership and operation of public utilities in New York are great, but not insuperable. Most of them could be overcome with comparative ease if once those who formulate and administer legislation were heartily united in an effort to promote the adoption of municipal ownership as a definite and comprehensive policy. As to the inherent administrative and political difficulties, we can only say that municipal government is already charged with functions so vital to the life, health, morals and prosperity of those who live in urban communities, that inefficiency, extravagance and narrow partisanship cannot be permanently tolerated. The dangers that confront municipal

operation along these lines are already present in the administration of other municipal functions, and *must be overcome.* Otherwise, democracy as applied to cities will prove a disastrous failure. This is not the time and New York is not the place to admit such a result. The present transit crisis is a grave menace to the city's future. We propose the formulation and persistent advocacy of a transit program having for its end the complete municipalization of all rapid transit, street car and bus line services in New York.

DELOS F. WILCOX *
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NEW YORK, NOVEMBER, 1919.

* This discussion was first prepared by Mr. Wilcox and then submitted to others for criticism and suggestion. It has been revised in the light of suggestions received and events that have recently taken place. The signers other than Mr. Wilcox have consented to join him in giving the pamphlet publicity as a basis for public discussion and appropriate action. Copies may be obtained from any one of the signers or by addressing Mr. Wilcox at 73 Gleane Street, Elmhurst, L. I.

POSTSCRIPT

Mr. J. M. Budish and Mr. Abraham Lefkowitz, on behalf of themselves and their associates in the labor movement, in order to avoid any possible misinterpretation of their position with respect to the foregoing discussion, desire to have three points made clear:

1. If the language used in this pamphlet should be interpreted as inferring that the wages paid to the transit employes are now too high, they wish to register their emphatic dissent. They state that the prevailing rate for organized labor in New York City at the present time is from 85 cents to $1.00 per hour, with an eight-hour day and a half holiday on Saturday, and that the wages now received by transit employes are not more than two-thirds of this amount.

2. If the language used in this pamphlet should be interpreted as advocating the legal prohibition of strikes in transportation service, they wish to express their emphatic dissent. They agree that strikes should be prevented by removing the conditions that lead to them, and are in accord with the suggestions made in this pamphlet for the removal or elimination of such conditions.

3. Affirmatively, they believe that efficiency in public operation of transit lines and the prevention of strikes or serious differences will be promoted by the recognition of the right of the employes to participate in the management.

D. F. W.

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